IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1569 OF 2005

Ajit Dayal Keer. ... Petitioner

Versus.

The State of Maharashtra & ors. ... Respondents.

Shri A.Y.Sakhare, Senior Counsel i/by Shri J.J.Shah
for the Petitioner.

Shri P.G.Sawant, A.G.P.for Respondent No.1.

Shri S.V.Chavan i/by Shri Utangale for Respondent No.2.

Shri S.G.Surana for Respondent No.3.

Ms.Savita Suryavanshi for Respondent No.4.

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.

DATED : 16th JANUARY, 2006.

P.C.:

1. Heard Shri Sakhare, Senior Counsel in support of this petition. Shri Sawant, A.G.P. appears for Respondent No.1. Shri Chavan appears for Respondent No.2. Shri Surana appears for Respondent No.3 and Ms.Suryavanshi appears for Respondent No.4.

2. The Petitioner is seeking a declaration that he is entitled to a permanent alternate accommodation in view of his earlier hutment on a plot of land which is now being developed under D.C.Regulation 33(10). The submission is that the Petitioner and his brother Rajendra Keer were living separately. They are having separate ration cards and therefore, they should be

given two separate alternate structures in the scheme by reconstruction. Shri Surana, learned Counsel appearing for Respondent No.3 has pointed out that the facts are otherwise. The Petitioner and his brother Rajendra Keer were at all material times staying in one structure and he has drawn our attention to the electoral rolls of the year 1993 as well as 1995 which show that both the brothers were staying in one structure only.

3. This question has came up earlier in Writ Petition No.492 of 2000 filed by one Smt.Sukminibai Krishna Shigwan against M/s.Adinath Builders and Developers and others. The same was decided by the Division Bench on 3rd March 2005 and one of us (H.L.Gokhale, J.) is a party to that judgment. The relevant clause of eligibility in a redeveloped scheme was considered by the Court. It was noted that for eligibility in a re-developed scheme the inhabitants in such structures whose names appear in the electoral roll as on 1st January 1995 or a date prior thereto will apply for a tenement in exchange of an independently numbered structure. The Division Bench held in that case of similarly situated two brothers staying in one structure that they were not entitled to two separate tenements in the scheme after redevelopment. Similarly in the present case also the Petitioner cannot be said to be eligible to get separate tenement than the one which is being allotted to his brother Rajendra Keer.

He is of course entitled to stay in that tenement along with Rajendra Keer and his family.

4. Petition is dismissed.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)